

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

ROBERTO DURAND,

Plaintiff

v.

EXUM, *et al.*,

Defendants

Case No. 3:21-cv-00269-MMD-CLB

ORDER

I. DISCUSSION

On June 15, 2021, this Court ordered Plaintiff to file a fully complete application to proceed *in forma pauperis* or pay the full \$402 filing fee for a civil action on or before August 13, 2021. (ECF No. 3 at 2). On June 16, 2021, Plaintiff filed an application to proceed *in forma pauperis*. (ECF No. 4). In review of Plaintiff's application, the Court notes that Plaintiff has not included an inmate account statement for the previous six-month period.

Under 28 U.S.C. § 1915(a)(2) and Local Rule LSR 1-2, an inmate seeking to begin a civil action in this Court may apply to proceed *in forma pauperis* in order to file the civil action without prepaying the full \$402 filing fee. To apply for *in forma pauperis* status, the inmate must submit all three of the following documents to the Court:

- (1) a completed **Application to Proceed in Forma Pauperis for Inmate**, this Court's approved form (i.e. pages 1 through 3 with the inmate's two signatures on page 3),
- (2) a **Financial Certificate** properly signed by both the inmate and a prison or jail official (i.e. page 4 of this Court's approved form), and
- (3) a copy of the **inmate's prison or jail trust fund account statement for the previous six-month period**.

Accordingly, the Court denies the Plaintiff's application (ECF No. 4) without prejudice because the application is incomplete. The Court will grant Plaintiff one final

1 opportunity to file a fully complete application to proceed *in forma pauperis* containing all
2 three of the required documents, or in the alternative, pay the full \$402 filing fee for this
3 action on or before **September 28, 2021**. Absent unusual circumstances, the Court will
4 not grant any further extensions of time.

5 If Plaintiff is unable to file a fully complete application to proceed *in forma pauperis*
6 with all three required documents or pay the full \$402 filing fee on or before **September**
7 **28, 2021**, this case will be subject to dismissal without prejudice for Plaintiff to file a new
8 case with the Court when Plaintiff is either able to acquire all three of the documents
9 needed to file a fully complete application to proceed *in forma pauperis* or pays the full
10 \$402 filing fee.

11 A dismissal without prejudice means Plaintiff does not give up the right to refile the
12 case with the Court, under a new case number, when Plaintiff has all three documents
13 needed to submit with an application to proceed *in forma pauperis*. Alternatively, Plaintiff
14 may choose not to file an application to proceed *in forma pauperis* and instead pay the
15 full filing fee of \$402 on or before **September 28, 2021** to proceed with this case.

16 The Court will retain Plaintiff's civil rights complaint (ECF No. 1-1), but the Court
17 will not file the complaint unless and until Plaintiff timely files a fully complete application
18 to proceed *in forma pauperis* with all three documents or pays the full \$402 filing fee.

19 **I. CONCLUSION**

20 For the foregoing reasons, IT IS ORDERED that Plaintiff's application to proceed
21 *in forma pauperis* (ECF No. 4) is denied without prejudice to file a new fully complete
22 application to proceed *in forma pauperis* with all three documents.

23 IT IS FURTHER ORDERED that the Clerk of the Court will send Plaintiff the
24 approved form application to proceed *in forma pauperis* by an inmate, as well as the
25 document entitled information and instructions for filing an *in forma pauperis* application.

26 IT IS FURTHER ORDERED that on or before **September 28, 2021**, Plaintiff will
27 either pay the full \$402 filing fee for a civil action (which includes the \$350 filing fee and
28 the \$52 administrative fee) or file with the Court:

1 (1) a completed **Application to Proceed in Forma Pauperis for Inmate** on this
2 Court's approved form (i.e. pages 1 through 3 of the form with the inmate's two
3 signatures on page 3),

4 (2) a **Financial Certificate** properly signed by both the inmate and a prison or jail
5 official (i.e. page 4 of this Court's approved form), and

6 (3) a copy of the **inmate's prison or jail trust fund account statement for the**
7 **previous six-month period.**

8 IT IS FURTHER ORDERED that, if Plaintiff does not file a fully complete
9 application to proceed *in forma pauperis* with all three documents or pay the full \$402
10 filing fee for a civil action on or before **September 28, 2021**, this case will be subject to
11 dismissal without prejudice for Plaintiff to refile the case with the Court, under a new case
12 number, when Plaintiff has all three documents needed to file a complete application to
13 proceed *in forma pauperis* or pays the full \$402 filing fee.

14 IT IS FURTHER ORDERED that the Clerk of the Court will retain the complaint
15 (ECF No.1-1) but will not file it at this time.

16 DATED: August 10, 2021

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UNITED STATES MAGISTRATE JUDGE